

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 472

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, AMENDING THE TRAFFIC AND VEHICLE CODE, CHAPTER 10.05 OF BURIEN MUNICIPAL CODE; AUTHORIZING USE OF AUTOMATED TRAFFIC CAMERAS TO DETECT STOPLIGHT INFRACTIONS AND SCHOOL SPEED ZONE VIOLATIONS; ADOPTING THE STATUTORY STANDARDS AND RESTRICTIONS REGARDING USE OF AUTOMATED TRAFFIC SAFETY CAMERAS; SETTING THE MONETARY PENALTY FOR SUCH INFRACTIONS; CREATING NEW SUBSECTION BMC 10.05.070 RELATING TO AUTOMATED TRAFFIC SYSTEMS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE THEREOF

WHEREAS, according to the International Association of Chiefs of Police Highway Safety Committee, the majority of motor vehicle collisions are attributed to motorists who run red lights, speed, or illegally maneuver through railroad crossings; and

WHEREAS, properly executed photo and/or other automated enforcement technology could be used to supplement law enforcement presence, assist in motorist compliance with vehicle laws, improve transportation system operations, reduce vehicle collisions and incidents, reduce motorist fatalities, injuries, and property damage, improve roadway traffic flow (mobility), and reduce traffic congestion; and

WHEREAS, automated enforcement technology is not intended to replace traditional law enforcement personnel nor to mitigate safety problems caused by deficient road design, construction or maintenance; rather, it provides enforcement at times and locations when police manpower is unavailable or its use raises safety concerns; and

WHEREAS, the State Legislature added Section 46.63.170 RCW to Chapter 46.63 of the Motor Vehicle Code to authorize the use of automated traffic safety cameras at two-arterial intersections, railroad crossings, and school speed zones, and

WHEREAS, the City has numerous two-arterial intersections and school zones that would benefit from the strategic placement of automated traffic safety cameras, and

WHEREAS, the City Council finds that it would be in the best interests of the public health, safety and welfare to amend the Traffic and Vehicle Code of the City to provide for the use of automated traffic safety systems as allowed under state law;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Automated Traffic Safety Systems. Chapter 10.05 of the Burien Municipal Code is hereby amended by the addition of the following subsection to be known and referred to as BMC 10.05.070 Automated Traffic Safety Systems to read as follows:

A. Authorized Use of Automated Traffic Safety Cameras. Law enforcement officers of the City of Burien and persons commissioned by the Chief of Police for the City of Burien are authorized to use automated traffic cameras and related automated systems to detect one or more of the following: (1) stoplight violations and (2) school speed zone violations.

B. Restrictions Upon Use. The use of automated traffic safety cameras is subject to the following restrictions:

1. Use of traffic safety cameras is restricted to two arterial intersections and school speed zones only;

2. Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. Pictures taken by automated traffic safety cameras may not reveal the face of the driver or of the passengers in the vehicle.

C. Locations to be Marked. The City shall clearly mark all locations where automated traffic safety cameras are in use by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera.

D. Notice of Infraction.

1. Whenever any vehicle is photographed by an automatic traffic safety camera, a notice of infraction shall be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under this section.

2. If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction is issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:

a. A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

b. A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

c. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty. Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

3. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, micro-photos, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter.

E. Request for Hearing. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail. The person receiving the infraction may also request a hearing.

F. Presumption of Committed Infraction/Presumption Overcome.

1. In a traffic infraction case involving an infraction detected through the use of an automated traffic safety camera under this section BMC 10.05.070, proof that the particular vehicle described in the notice of traffic infraction was in violation of any such provision of this section BMC 10.05.070, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

2. This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner.

G. Infractions Processed. Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions including RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216 and 46.20.270(3).

H. Non-exclusive Enforcement. Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030 (1)(a),(b), or (c).

I. Fines. The fine for infractions committed pursuant to the provisions of this Section 10.05.070 shall be a base monetary penalty of \$101.

J. Use of Electronic Signatures. In connection with the automated traffic safety cameras authorized for use herein, the police chief or the police chief's designee is authorized to utilize electronic signatures in accordance with the provisions of Chapter 19.24 RCW.

Definition. For the purposes of this ordinance, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or exceeds a speed limit to a school speed zone as detected by a speed measuring device.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.


Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 20th DAY OF August, 2007, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 20th DAY OF August, 2007.

CITY OF BURIEN


Joan McGilton, Mayor

ATTEST/AUTHENTICATED:


Monica Lusk, City Clerk
Acting

Approved as to form:



Chris Bacha
Kenyon Disend PLLC
Interim City Attorney

Filed with the City Clerk: August 2, 2007
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